

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE JESUS AVALOS-AVILES,

Plaintiff,

v.

RED ROBIN INTERNATIONAL, INC.,

Defendant.

No. 2:22-cv-01257-DAD-DB

ORDER GRANTING DEFENDANT'S  
UNOPPOSED MOTION TO CONSOLIDATE  
CASES AND CONSOLIDATING CASES

NICHOLAS J. MCINERNY,

Plaintiff,

v.

RED ROBIN INTERNATIONAL, INC.,

Defendant.

No. 2:23-cv-01548-DAD-DB

Before the court is the unopposed motion to consolidate cases filed by defendant Red Robin International, Inc. ("Red Robin") on January 9, 2024 in *Avalos-Aviles v. Red Robin International, Inc.*, No. 2:22-cv-01257-DAD-DB. (Doc. No. 23.) Specifically, defendant Red Robin seeks to consolidate the following two related cases brought against it in this district:

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- 1           •       *Avalos-Aviles v. Red Robin International, Inc.* (No. 2:22-cv-01257-DAD-DB) (the
- 2                    “*Avalos* action”); and
- 3           •       *Nicholas J. McNerny v. Red Robin International Inc. et al.* (No. 2:23-cv-01548-
- 4                    DAD-DB) (the “*McInerny* action”)

5       (*Id.*)

6           On January 26, 2024, plaintiff in the *Avalos* action filed a statement of non-opposition to

7       the pending motion. (*Avalos*, Doc. No. 24.) On February 2, 2024, the parties in the *McInterny*

8       action filed a joint status report, in which the parties state that they “met and conferred and

9       plaintiff, through his counsel, agreed he would not oppose consolidating his action with *Avalos*.”

10       (*McInterny*, Doc. No. 31 at 3.) On February 5, 2024, the court took the pending motion under

11       submission on the papers. (*Avalos*, Doc. No. 25.)

12           Pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, “[i]f actions before the

13       court involve a common question of law or fact, the court may: (1) join for hearing or trial any or

14       all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to

15       avoid unnecessary cost or delay.” In exercising its discretion, the court “weighs the saving of

16       time and effort consolidation would produce against any inconvenience, delay, or expense that it

17       would cause.” *Huene v. United States*, 743 F.2d 703, 704 (9th Cir. 1984). Here, the court finds

18       that the actions involve the same or similar parties, claims, and questions of fact or law, and that

19       consolidation will avoid unnecessary costs and duplication of proceedings. Thus, good cause

20       exists to grant defendant’s unopposed motion to consolidate these cases.

21       Accordingly,

- 22           1.       Defendant’s unopposed motion to consolidate cases (Doc. No. 23) is granted;
- 23           2.       The above-referenced cases shall be consolidated for all purposes, including trial,
- 24                    pursuant to Rule 42(a);
- 25           3.       The Clerk of the Court is directed to file this order in each of the above-referenced
- 26                    cases; and

27       ////

28       ////

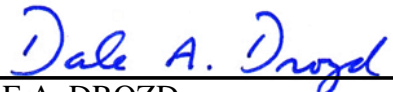
4. Going forward, the parties and the Clerk of the Court are directed to file documents under only the lead case number. Future captions should indicate the lead case number followed by the member case number as follows:

**Lead Case: 2:22-cv-01257-DAD-DB**

**Member Case: 2:23-cv-01548-DAD-DB**

IT IS SO ORDERED.

Dated: **February 8, 2024**

  
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DALE A. DROZD  
UNITED STATES DISTRICT JUDGE